UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/48
17 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 5

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Written statement submitted by Human Rights Advocates, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[13 March 1997]

The relationship between the enjoyment of human rights, in particular economic, social and cultural rights and the right to development, and the working methods and activities of transnational corporations

Introduction

1. Human Rights Advocates (HRA), 1/ in conjunction with the Natural Heritage Institute (NHI), 2/ submits the following intervention to the Commission on Human Rights.

2. We support resolution 1996/39 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, recommending that the Commission establish a working group composed of five experts nominated by Governments, for a period of three years, to study the issues surrounding the effects of the working methods and activities of transnational corporations on economic, social and cultural rights and the right to development.

The relationship between transnational corporations and human rights

3. With the increased globalization of the world economy, transnational corporations have become important actors in developed and developing countries. Transnational corporations potentially bring many benefits to countries where they are active, particularly in developing countries where the may stimulate development.

4. However, the working methods and activities of transnational corporations also have many adverse effects. Causes for concern include the shifting balance of power between transnational corporations and domestic Governments, the downward harmonization of labour, consumer and environmental standards in States that compete for transnational corporation investment, lack of accountability of transnational corporations to domestic and international organs, and the absence of comprehensive international mechanisms to oversee transnational corporation activities.

5. Transnational corporations often exert excessive influence on Governments and monopolize entire industries. Their activities can cause environmental degradation, which has adverse effects on a local and global level. Transnational corporations may also operate in a manner which leads to the exploitation of local employees and to poor working conditions. Sectors in which these violations appear to be particularly egregious include oil and other mineral exploitation, logging, agriculture, textiles and the disposal of hazardous wastes.

6. There is increasing consensus at the international level that certain activities of transnational corporations, including their environmental practices, have implications for the enjoyment of human rights. Some of the human rights affected are the right of peoples to self-determination and to permanent sovereignty over their natural wealth and resources; the right to development; the right to life; the right to health; the right to culture; the right of everyone to the enjoyment of just and favourable conditions of work. Their practices also affect the rights of certain groups and peoples, including women, children, migrant workers and indigenous peoples.

7. Legal remedies for victims of abuses committed by transnational corporations are often unavailable, because transnational corporations do not fall under the jurisdiction of a single Government. On the domestic level, transnational corporations may escape liability if countries where they operate lack the political will or the legal mechanisms to effectively enforce regulations. In many instances, enforcement efforts are further dampened by corruption of judicial and governmental bodies. On the international level, the status of international law with regard to transnational corporations and the role that States play in their activities is uncertain. The United Nations addressed this issue in its Draft Code of Conduct on Transnational Corporations, 3/ which acknowledged the link between human rights and the activities of transnational corporations. However, the drafters could not reach consensus on the amenability of private corporations to public international law.

Recommendations

8. As examined above, the working methods and activities of transnational corporations may affect the enjoyment of human rights. We believe it is essential to undertake an in-depth study in order to remedy the scarcity of information and uncertainties surrounding the factual and legal aspects of this issue. The Commission on Human Rights, as the main United Nations forum for developing human rights standards and for providing an enforcement mechanism for correction of human rights violations, is the appropriate body to oversee this procedure.

9. We recommend that the Commission establish a working group on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights and the right to development, and the working methods and activities of transnational corporations. The working group, composed of five experts, would convene over a period of three years. Its mandate would include: identifying and examining the effects of activities of transnational corporations on human rights and the environment; investigating, monitoring and examining situations and receiving communications on cases relating to these issues; identifying the legal foundations for addressing the activities of transnational corporations; exploring the relationship between transnational corporations, Governments and international organizations; making recommendations and proposals aimed at regulating, at the national, regional and international levels, the methods of work and the activities of transnational corporations.

Notes

1/ Human Rights Advocates is a non-governmental organization which provides education to the public on their human rights and advocates protection of those rights in international and other forums. It is in special consultative status with the Economic and Social Council.

2/ The Natural Heritage Institute is a non-profit, non-governmental organization which provides counselling and advocacy for public interest organizations and government institutions on natural resource problems, including international conservation and human rights.

3/ Document E/C.10/1982/6 of 5 June 1982, annex.